



ARK:jsg040406/1901048A.RES-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant : Samantha K. Holme et al.
Serial No. : 10/719,602
Filed : November 21, 2003
For : COMPOSITIONS FOR REMOVING
STAINS FROM DENTAL SURFACES AND
METHODS OF MAKING AND USING THE
SAME
Examiner : Michel Graffeo
Art Unit : 1614
Confirmation No. : 3118
Attorney Docket No. : (020001)-07-LAV

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VIRGINIA 22313-1450

ON April 4, 2006

NAME Jill S. Garretson

SIGNATURE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

April 4, 2006

RESPONSE

Dear Sir:

This is in response to the Office Action of February 9, 2006 setting forth a Restriction Requirement. Applicants have filed concurrently herewith a Petition for a

one month extension of time along with the requisite fee extending the date for response to April 9, 2006.

The Office Action sets forth a Restriction Requirement in which Applicants are required to elect a peroxide, a polyphosphate, an anionic surfactant, a form of the composition (e.g. chewing gum) and an encapsulating substance. In response to the Restriction Requirement, Applicants elect carbamide peroxide as the peroxide compound, sodium tripolyphosphate as the polyphosphate compound, chewing gum as the form of the composition, and polyvinylacetate as the encapsulating substance. Applicants elect sodium stearate and/or sodium palmitate as the anionic surfactant. Applicants specifically request modification of the election requirement as it pertains to the anionic surfactant. It is well known that sodium stearate is commercially available as a 50/50 mixture with sodium palmitate. Therefore, Applicants elect either or both of these compounds as the species of the anionic surfactant. If this modification of the election requirement is not permissible, then Applicants elect sodium stearate as the anionic surfactant.

Applicants respectfully traverse the Restriction Requirement to the extent it seeks to establish patentably distinct inventions for the respective species. It is respectfully submitted that the present divisional application is based on the same disclosure as in U.S. Patent No. 6,685,916 in which claim 1 of the patent is directed to a confectionery composition "comprising a stain removing effective amount of a stain removing component consisting essentially of a peroxide compound, a

polyphosphate, and an anionic surfactant as well as an orally acceptable confectionery carrier. Accordingly, the claims of the issued patent include all species within the generic claim. Applicants believe that the same reasoning should be applied to the present application in order to provide consistency in prosecution.

Notwithstanding the above, Applicants understand the use of a Restriction Requirement to enable a search within a reasonable amount of time. To the extent the election of species is used for this purpose, Applicants have no objection. However, as indicated above, Applicants do traverse the Restriction Requirement to the extent that it is used to assert patentably distinct inventions which would make the present application inconsistent with the above-mentioned issued patent.

In addition, page 8 of the present application provides a basis for the present invention by indicating that the novel combination of stain removing agents significantly improves stain removing activity over the activity of the individual stain removing agents. Ample evidence of this improved activity is provided in the examples beginning on page 31. Accordingly, the invention is directed to the novel and unobvious combination of groups of stain removing agents and therefore all species of each group should be examined in the present application as in Applicants' parent application.

It is therefore respectfully requested that the Restriction Requirement be withdrawn for purposes of patentability and that the examination of the combination of groups of stain removing agents as reflected in the claims be considered in its entirety.

In order to complete the response to the Restriction Requirement, the claims readable on the elected combination are claims 1-14, 17, 20-25, 29-33, 35, 37 and 38.

It is believed that no fee is due in connection with this matter. However, if any fee is due, it should be charged to Deposit Account No. 23-0510.

Respectfully submitted,



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